UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/044,570	01/11/2002	Raj Jhanwar	MS#164036.2 (4933.1)	9456

			EXAMINER	
321 7590 06/16/2005			FOWLKES, ANDRE R	

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ART UNIT	PAPER NUMBER
2192	

DATE MAILED: 06/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<table>
<tr><td rowspan="2">Office Action Summary</td><td>Application No.
10/044,570</td><td>Applicant(s)
JHANWAR ET AL.</td></tr>
<tr><td>Examiner
Andre R. Fowlkes</td><td>Art Unit
2192</td><td></td></tr>
</table>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>23 March 2005</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-16,27-34 and 36-42</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-16,27-34 and 36-42</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☑ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>5/18/05, 3/25/05</u>

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____ .

U.S. Patent and Trademark Office

PTOL-326 (Rev. 1-04)   Office Action Summary   Part of Paper No./Mail Date 20050610

DETAILED ACTION

1.   This action is in response to the amendment filed 3/23/05.

Double Patenting

2.   The rejection under 35 U.S.C. 101 is withdrawn in view of the abandonment of

copending Application No. 10004073.

Claim Rejections - 35 USC § 102

3.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4.   Claims 1-16, 27-34 and 36-42 are rejected under 35 U.S.C. 102(e) as being

anticipated by Bowler, U.S. Patent Application No. 2002/0174329.

        As per claim 1, Bowler discloses **a method for dynamically updating software**

prior to installation of the software on at least one destination machine, said

software being stored on one or more installation media and being adapted for

installation on the destination machine from the installation media (p. 2 col. L:8-

10, "a method for automatically transitioning files (i.e. installing software) from a source

computing system to a target computing system", and p. 9 col. R:18-21, "(The process

may dynamically update software stored on an installation media, in such a way that the

destination machine receives) new settings (i.e. software) 'calculated' from the old

settings on a (installation media)", and p. 6 col. L:7-15, "Another feature of the Network

Object 62 is to allow a user to review and edit (software) configuration settings before

they are applied to the target computing system ... Thus, the user can review and edit

the configuration settings before they are applied to the target computing system 26."),

and p. 15 col. R:33-41, "In one embodiment of the present invention, Steps 150, 152

and 154 are practiced via the User Interface application 20 using the Personality Object

58. In such an embodiment, any conflicts are overcome as the files are being selected.

The User Interface application 20 manipulates graphical displays (e.g., FIGS. 13-15) to

prevent or resolve dynamically conflicts as files are being selected. Thus, conflicts are

overcome before any files are actually extracted (i.e. modifications are made prior to

installation)", **said method comprising:**

    - identifying update content related to the software before installing the

software on the destination machine from the installation media (p. 9 col. R:20-24,

"(The) process may also be used for extracting configuration settings (i.e. obtaining

update content) from multiple ... computing systems (i.e. update media) that are local or

remote, and conglomerating them").

    - obtaining the identified update content from one or more update media,

said media being remote from the destination machine (p. 9 col. R:20-24, "(The)

process may also be used for extracting configuration settings (i.e. obtaining update

content) from multiple ... computing systems (i.e. update media) that are local or

remote, and conglomerating them"),

**- merging the update content with the software stored on the installation

media to create updated software** (p. 9 col. R:20-24, "(The) process may also be

used for extracting configuration settings (i.e. update content and software) from

multiple ... computing systems that are local or remote, and conglomerating them").

- Installing the updated software on the destination machine (p. 2 col. L:8-

10, "a method for automatically transitioning files (i.e. installing software) from a source

computing system to a target computing system").

As per claim 2, the rejection of claim 1 is incorporated and further, Bowler

discloses that **obtaining update content from one or more media remote from the

destination machine via a network** (p. 2 col. R:55-57 "including intermediate

computing systems or computer networks (e.g. the Internet or an intranet, etc.) between

the source computing system (i.e. remote media) and the target computing system (i.e.

destination machine)").

As per claim 3, the rejection of claim 2 is incorporated and further, Bowler

discloses that **the network is the Internet** (p. 2 col. R:55-57 "including intermediate

computing systems or computer networks (e.g. the Internet or an intranet, etc.) between

the source computing system (i.e. remote media) and the target computing system (i.e.

destination machine)").

As per claim 4, the rejection of claim 1 is incorporated and further, Bowler

discloses that **the update content includes at least one file** (p. 1 col. L:22-24 "a

method and system for automatic transitioning of files among computer systems").

As per claim 5, the rejection of claim 1 is incorporated and further, Bowler

discloses that **the update content includes a patch** (p. 1 col. L:35-37 "updated

versions of operating systems (i.e. patched versions), software applications and other

improved features").

As per claim 6, the rejection of claim 5 is incorporated and further, Bowler

discloses that **the patch modifies the software on the installation media prior to**

installation on the destination machine ((p. 1 col. L:35-37 "updated versions of

operating systems (i.e. patched versions), software applications and other improved

features"), and p. 9 col. R:20-24, "(The) process may also be used for extracting

configuration settings (i.e. update content and software) from multiple ... computing

systems that are local or remote, and conglomerating them (i.e. modifying them)").

As per claim 7, the rejection of claim 1 is incorporated and further, Bowler

disclose that the update content includes **a driver for controlling hardware on the**

destination machine (p. 5 col. R:51-54 "(The system analyzes the hardware and/or

software of the destination machine and) will not install configuration settings (and

device drivers) for network applications that are not available on the (destination machine)").

As per claim 8, the rejection of claim 1 is incorporated and further, Bowler discloses that **identifying the update content comprises:**

- analyzing hardware or software or both on the destination machine (p. 5 col. R:51-54 "(The system analyzes the hardware and/or software of the destination machine and) will not install configuration settings (and software) for network applications that are not available on the (destination machine)").

As per claim 9, the rejection of claim 8 is incorporated and further, Bowler discloses **one or more computer readable media having computer-executable instructions for performing the method recited** (p. 18 col. R:14-15 "A computer readable medium having stored therein instructions for causing a processor to execute the method (of the invention)").

As per claim 10, the rejection of claim 1 is incorporated and further, Bowler discloses that **the software comprises operating system software or application program software or both** (p. 1 col. L:35-37 "updated versions of operating systems, new software applications and other improved features").

As per claim 11, the rejection of claim 1 is incorporated and further, Bowler discloses that **merging the update content with the software comprises one or more of the following: patching, replacing, and adding to the software on the one or more installation media** (p. 9 col. R:20-24, "(The) process may also be used for extracting configuration settings (i.e. update content, software and patches) from multiple ... computing systems that are local or remote, and conglomerating them", and p. 5 col. R:57-59 "If the target computing system does not have TCP/IP installed, (then the system extracts that file from the update content)").

As per claim 12, the rejection of claim 1 is incorporated and further, Bowler discloses **extracting at least one file from the update content** (p. 5 col. R:57-59 "If the target computing system does not have TCP/IP installed, (then the system extract that file from the update content)").

As per claim 13, the rejection of claim 1 is incorporated and further, Bowler discloses that **pre-processing the update content in preparation for installation** (p. 5 col. R:47-50 "The (update content is pre-processed based on) ... the operating system (and) services available on the target computing system, (then applied to the target computing system)").

As per claim 14, the rejection of claim 1 is incorporated and further, Bowler discloses that **the software comprises one or more files** (p. 1 col. L:22-24 "a method

and system for automatic transitioning of files among computer systems"), **wherein**

installing the updated software on the destination machine comprises:

  - searching the update content for each of the files (p. 5 col. R:47-50 "The

(update content is located and) … applied to the target computing system)"),

  - searching the one or more installation media for each of the files not

found in the update content (p. 5 col. R:47-50 "The (update content is located and)

… applied to the target computing system)").

As per claim 15, the rejection of claim 1 is incorporated and further, Bowler

discloses **specifying registry** (settings) **to automate installation of the updated**

software (p. 5 col. R:28-45 "Exemplary configuration settings included in the (system,

include) registry settings").

As per claim 16, the rejection of claim 1 is incorporated and further, Bowler

discloses **one or more computer readable media having computer-executable**

instructions for performing the method recited (p. 18 col. R:14-15 "A computer

readable medium having stored therein instructions for causing a processor to execute

the method (of the invention)").

As per claims 27-37, this is a computer readable media version of the claimed

method discussed above, in claims 1-11 and 13, wherein all claimed limitations have

also been addressed and/or cited as set forth above. For example, see Bowlers system for automatically transitioning files among computer systems (p. 2 col. L:3-32).

As per claims 38-34 and 36-39, this is a system version of the claimed method discussed above, in claims 1 and 10, wherein all claimed limitations have also been addressed and/or cited as set forth above. For example, see Bowlers system for automatically transitioning files among computer systems (p. 2 col. L:3-32).

As per claims 40-42, this is another method version of the claimed method discussed above, in claims 7 and 11, wherein all claimed limitations have also been addressed and/or cited as set forth above. For example, see Bowlers system for automatically transitioning files among computer systems (p. 5 col. R:51–p. 9 col. R:24).

Response to Arguments

5.   Applicants arguments have been considered but they are not persuasive.

In the remarks, the applicant has argued substantially that:

1)   Bowler does not disclose that the injection of the new calculated settings and merging of the update content <u>takes place prior to</u> the target computing systems installation of software, at p. 10:17-26, 11:10-12, 12:1-31 and 13:8-12.

Examiner's response:

1)   The examiner disagrees with applicant's characterization of the applied art.

Bowler discloses that the injection of the new calculated settings and merging of the

update content takes place prior to the target computing systems installation of software

at p. 6 col. L:7-15, and p. 15 col. R:33-41, as addressed above in the art rejection of

amended independent claims 1, 27 and 38.

In the remarks, the applicant has argued substantially that:

2)   Bowler teaches away from merging update content prior to installation of

software, at p. 10:23, 12:2.

Examiner's response:

2)   The examiner disagrees with applicant's characterization of the applied art.

Bowler clearly discloses merging update content prior to installation of software at p. 6

col. L:7-15, and p. 15 col. R:33-41, as addressed above in the art rejection of amended

independent claims 1, 27 and 38.

Conclusion

6.   Applicant's amendment necessitated the new ground(s) of rejection presented in

this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP
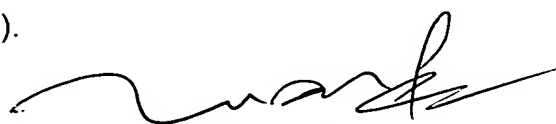
§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37

CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Andre R. Fowlkes whose telephone number is (571)

272-3697. The examiner can normally be reached on Monday - Friday, 8:00am-

4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Tuan Q. Dam can be reached on (571)272-3695. The fax phone number for

the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

TUAN DAM
SUPERVISORY PATENT EXAMINER

ARF